

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Dana Dukes Tyler,)	
)	C/A No. 6:15-0770-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Carolyn W. Colvin, Acting Commissioner of Social Security,)	
)	
)	
Defendant.)	
)	

Plaintiff Dana Dukes Tyler filed the within action on February 23, 2015, seeking judicial review of a final decision of Defendant Commissioner of Social Security denying Plaintiff's applications for disability insurance benefits and supplemental security income.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kevin F. McDonald for pretrial handling. On November 16, 2015, Defendant filed a motion to remand pursuant to sentence four of 42 U.S.C. § 405(g) to allow the administrative law judge to evaluate Plaintiff's residual functional capacity finding. Plaintiff filed a motion in opposition on December 2, 2015, arguing that the evidence supports a finding that Plaintiff has been disabled since April 5, 2012. Plaintiff seeks a remand for payment to Plaintiff from his claimed date of disability. On March 21, 2015, Defendant filed a reply, reiterating its position that the case would benefit from a remand to permit further evaluation of the record and re-evaluation of Plaintiff's claims for disability insurance benefits and supplemental security income. On March 31, 2016, the Magistrate Judge issued a Report of Magistrate Judge in which he determined that the administrative law judge should evaluate Plaintiff's residual functional capacity and specifically account for his moderate difficulties in maintaining concentration, persistence, or pace. The Magistrate Judge therefore recommended that the within action be remanded for further

administrative action as outlined above, as well as to address Plaintiff's allegations of error. On April 12, 2016, Plaintiff and Defendant each filed a notice of not filing objections to the Report of Magistrate Judge.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report of Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report of Magistrate Judge and incorporates it herein by reference. For the reasons set forth herein and in the Report of Magistrate Judge, the case is remanded pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative action.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina
April 14, 2016